

## Minutes of the State Board of Health May 10, 2006

The Washington State Board of Health (WSBOH) met at the Red Lion Hotel Kennewick—Columbia Center. Dr. Kim Marie Thorburn, WSBOH Chair, called the public meeting to order at 9:35 a.m. and addressed the attendees with the following statement:

“This is a public meeting of the State Board of Health held under provisions of RCW 43.20. Notice was provided in accordance with provisions of RCW 34.05, the Administrative Procedures Act. Those members having any conflict of interest on any item coming before the Board will report that conflict with respect to the particular subject under consideration. In case of challenge of any Board members by the public, the Board shall decide the status of the challenged members to participate before considering the substance of the matter.

Copies of materials supplied to the Board for today’s meeting have been available since close of business last Friday from the Board’s Tumwater office and on its Web site at [www.sboh.wa.gov](http://www.sboh.wa.gov). They are also available today, along with anything we have received since, at the table in the back of the room. To conserve public funds, we have only made as many copies as we felt would be needed, so we may run out of some popular items. If you do not find a document you need, please ask Desiree Robinson, WSBOH Executive Assistant, or another Board staff person for one.

Our meeting today is open to the public, so please feel free to listen in on informal discussions involving Board members or staff, including any that may occur during breaks or lunch.”

### **SBOH members present:**

Kim Marie Thorburn, MD, MPH, Chair  
The Honorable Mike Shelton, Vice Chair  
Charles Chu, DPM  
The Honorable David Crump, PhD  
Ed Gray, MD

Keith Higman  
Bill White  
Frankie T. Manning, MN, RN  
Mel Tonasket

### **SBOH members absent:**

Karen VanDusen

### **State Board of Health Staff present:**

Craig McLaughlin, Executive Director  
Desiree Robinson, Executive Assistant  
Heather Boe, Communications Consultant

Ned Therien, Health Policy Analyst  
Tara Wolff, Health Policy Analyst

### **Guests and Other Participants:**

Sofia Aragon, Department of Health  
Kevin Barry, Klickitat County Health Department  
Denise Clifford, Department of Health  
Maria Courogen, Department of Health  
John Eliasson, Department of Health  
Heather Hill, Benton-Franklin Health District

Larry Jecha, Benton-Franklin Health District  
Tracy Mikessell, Department of Health  
Thomas Moak, Benton-Franklin Health District  
Sandy Owen, Benton-Franklin Health District  
John Peppert, Department of Health

Bruce Perkins, Benton-Franklin Health District

Melissa Pettis, Benton-Franklin Health District  
Thelma Siemon, Consumer  
Bill Thorton, Department of Health  
Jean Wessman, Washington State Association of Counties

### **APPROVAL OF AGENDA**

*Motion: Approve May 10, 2006 agenda*

*Motion/Second: Crump/Chu*

*Approved unanimously*

### **ADOPTION OF APRIL 12, 2006 MEETING MINUTES**

*Motion: Approve the April 12, 2006 minutes*

*Motion/Second: Crump/Higman*

*Approved unanimously*

### **WELCOME/LOCAL ISSUES**

Dr. Larry Jecha, health officer for Benton-Franklin Health District, introduced the Honorable Thomas Moak, Chair, Benton-Franklin Health District Board of Health and Max Benitz, Jr., Vice-Chair, Benton-Franklin Health District Board of Health. Mr. Moak discussed health district efforts to improve the health of the community. These included building many partnerships with community organizations. The health district has had an opportunity to educate elected officials about public health issues of concern, such as avian influenza. He mentioned that funding is a major challenge. He also expressed concern about the aging of key staff members and needing to find replacements within a few years. Mr. Benitz discussed plans to build new health district offices to meet the needs of the district for the next 20-25 years. Dr. Jecha discussed the burdens placed on local health districts by unfunded mandates. He said that local health districts have reached a point of crisis in funding vs. responsibility. He said jurisdictions within the district are having great success with enforcing the new indoor air act, but it is placing a strain on local resources. He also explained that funding for a multi-county health district comes from county governments and not directly from the cities. Mike Shelton, SBOH Vice Chair, commented that such districts provided an economy of scale that allowed more efficient operation than small.

### **SBOH ANNOUNCEMENTS AND OTHER BOARD BUSINESS**

Craig McLaughlin, WSBOH Executive Director, explained materials behind Tab 4. Staff is finalizing letters to Washington's congressional delegation expressing concern about the potential reduction in funding for urban Indian health programs. He said that Members Gray and Chu are completing their third terms on the Board. He said he was working with the Governor's staff to recruit replacements. Dr. Gray and Dr. Chu have been very contributory members of the Board and their clinical experience has provided particularly valuable perspective. Replacements will need to have health or sanitation experience and help represent the diversity of the state, including geographic. Mr. McLaughlin mentioned that Ned Therien, SBOH staff, recently became President-Elect of the Washington State Environmental Health Association (WSEHA). Mr. Therien described his efforts to help organize this April's Annual Educational Conference for WSEHA to contain a track on the topic of the built environment's effects on health. Karen VanDusen, SBOH Member, gave the welcome address for the conference.

Mr. McLaughlin described an invitation from the Department of Health (DOH) for the Board to participate in a workgroup to look at funding and payment methods for the treatment of children identified through DOH's newborn screening program. He suggested that Board staff member Tara Wolff participate unless a member expressed an interest. He described a petition from Dr. Margo Wootan, Director of Nutrition Policy of the Center for Science in the Public Interest (CSPI) requesting the Board adopt rules requiring nutritional information on menus in fast food and chain restaurants. The petition was signed by 69 residents of Washington State. They decided to deny this petition, but members expressed an interest in having Dr. Wootan address the Board and also invite members of the food industry to explain what they are doing to improve the public's ability to make choices for nutritious foods.

Mel Tonasket and Ed Gray, SBOH members, asked the Board to consider making personal contact with staff of federal legislators regarding HR 4167, a bill that could preempt state and local rules about food labeling.

***Motion: The Chair of the Board will make contact by phone or e-mail with Washington's U.S. Senators about the Board's concerns with HR 4167.***

***Motion/Second: Gray/Tonasket***

***Approved unanimously***

Mr. McLaughlin said staff has been working on a response to the petition for rule making from Ms. Ramels regarding requiring health providers to notify recipients of tissues illegally harvested from cadavers, which was discussed at the April Board meeting. This has included trying to clarify what agencies have jurisdiction over this issue. Chair Thorburn mentioned that this would include coordinating a response with DOH. Mr. McLaughlin said he has communicated by e-mail with the Lt. Governor and legislators on the Select Committee on Hood Canal on the petitions for rule making for on-site sewage system drainfield remediation technologies. He has received concurrence that a response from the Board by May 19 will be acceptable. Mr. McLaughlin discussed the status of rule making on several issues—on newborn screening, human remains, school environmental health, HIV name retention rule, dead animal disposal, and immunization. He pointed out a briefing paper in member's packets regarding the Joint Legislative Audit and Review Committee's call for a performance audit of the DOH public health mission, and mentioned two upcoming conferences on health disparities.

Member Gray commented that Governor Gregoire has somewhat preempted one of the Board's goals for improving access to health care services by establishing a special committee on Access. Secretary Selecky is on the committee. He encouraged the Board to continue to participate in an appropriate role. Chair Thorburn stated that the Board should continue to advance concepts tackled in the public process that looked at the controversial issue of a menu of critical health services. Chair Thorburn mentioned several reports from local health officers of recent violations of requirements for death certificates before burial. These violations seem to be related to religious practices because they both involved Muslims. The incidents may relate to work of the Board in revising the human remains rules.

#### **DEPARTMENT OF HEALTH UPDATE**

Bill White, Deputy Secretary of the Department of Health & WSBOH Member, commented on the pandemic flu conference held in Tacoma on April 14 and encouraged them to review the handout materials provided. DOH is currently involved in three Joint Legislative Audit and Review Committee audits. He mentioned the discovery of high arsenic levels found in some

school drinking water in Seattle recently and applauded the Seattle School District for immediately partnering with the local health department to notify the community and address the problem. Deputy Secretary White and Brian Peyton, DOH Legislative Policy Director, described the Governor's blue ribbon commission on health services access, which the Legislature created through a budget proviso. Board members discussed how the Board, in addition to the Secretary of Health, might add input in this process. They discussed trying to add a specific representative of the Board on the commission. Board staff was directed to investigate with the Governor's staff ways the Board could have a voice in the commission's deliberations. Deputy Secretary White said the Governor's directive for the commission was very specific about membership. Therefore, he said it might be more likely that specific Board involvement would be through workgroups. Mr. McLaughlin said he would contact the gubernatorial and legislative staff about opportunities for the Board's involvement and report to the Board at future meetings.

*The Board took a break at 11:00 a.m. and reconvened at 11:20 a.m.*

### **DRINKING WATER RULES: CHAPTER 246-290 WAC – REQUEST FOR DELEGATION FOR RULE REVISION**

Mike Shelton, WSBOH Member introduced this agenda item and explained that this action was prompted by changes in U.S. Environmental Protection Agency standards. Ned Therien, WSBOH Staff, introduced Denise Clifford and Bill Thurston of the DOH Drinking Water Program. She then directed the Board's attention to the *Group A Public Water Systems – Request for Delegation of Rulemaking* fact sheet and briefly explained its contents (refer to Tab 6) and gave a PowerPoint presentation titled *Delegation Request – Request for Delegation Group A WAC 246-290*. She referred Board members to the Board's *Policy for Considering Delegation of Rules to the Department of Health*. She said the rule was required to match federal requirements and water purveyors are expecting rule changes, so revisions would not be controversial.

Board members and presenters discussed whether there was a link between the two public health benefits of (1) improving protection against *Cryptosporidium* found in surface water and (2) of reducing exposure to water disinfectants and their harmful by-products would be achieved were related. Member Tonasket asked how reservoirs are protected. Mr. Thurston explained that this is achieved either through treatment or a cover depending on the size of the reservoir. Chair Thorburn confirmed that just 172 systems were affected by the LT2 and that they used surface water as their source. David Crump, SBOH Member, asked for clarification on what the delegation involved. Member Shelton explained that there was a narrow focus, which would allow changes to reflect federal requirements. The new rule requirements would be imposed by EPA if the State does not adopt them. This would affect the State's primacy status for implementing federal drinking water rules. By delegating the rule changes, DOH does the public process without taking up Board time. Member Shelton introduced the motion.

***Motion: The Board delegates to the Department of Health authority to adopt a revision to Chapter 246-290 WAC for the sole purpose of incorporating provisions compatible with the Stage 2 Disinfectants and Disinfection Byproducts Rule and the Long Term 2 Enhanced Surface Water Treatment Rule (LT2) of the US Environmental Protection Agency for Group A public water supplies.***

***Motion/Second: Shelton/Higman***

***Approved unanimously***

### **HIV REPORTING & NAME RETENTION BRIEFING: CHAPTER 246-101 WAC**

Chair Thorburn explained that the Ryan White Care Act provides federal funding for state and local programs serving people living with HIV and AIDS. The number of cases reported to the federal government affects the level for each state. In the federal fiscal year 2007, to get full federal funding, states will need to maintain records of names reported. She reminded the Board that it adopted an emergency rule recently that is only temporary. The permanent rule would continue provisions in the emergency rule and add some provisions that are currently not in the emergency rule (i.e., requiring laboratories to report certain HIV related test results to DOH). Ned Therien introduced John Peppert and Maria Courogen of the DOH Office of Infectious Disease and Reproductive Health. Mr. Peppert and Ms. Courogen jointly presented *HIV Reporting* (see PowerPoint presentation under Tab 7). Mr. McLaughlin told members that copies of comments received on this rule proposal are available at the back of the room. Member Higman commented that confidentiality issues and distrust of government seemed to be top issues. He asked how HIPPA affected federal reporting requirements. Ms. Courogen explained that public health surveillance is not subject to HIPPA provisions. Member Tonasket asked how the CDC would ensure compliance with keeping names. Ms. Courogen explained that the CDC does not audit names at the state level but is requiring the change to reduce duplicative reporting between states. Member Tonasket asked about the amount of funding the state would lose and its significance. Mr. Peppert explained that 400-500 people would lose services without the funding and that federal dollars are combined with state dollars to support this program. Member Shelton asked if funding was driving the policy or if policy was driving the funding. Chair Thorburn explained that money was not entirely driving the policy and that this is considered by many to be good policy. Ms. Courogen commented that organizations in other states did not hear the same objections about the CDC name retention requirements and that the stance of organizations in Washington State was unique. David Crump, SBOH Member, asked why the CDC was initiating these changes in reporting. Ms. Courogen explained that the CDC was concerned about duplication and over payment potential.

#### **PETITIONS FOR RULE MAKING: CHAPTER 246-272A WAC, ON-SITE SEWAGE – NITRATE REMOVAL & DRAIN FIELD REMEDIATION**

Keith Higman, WSBOH Member introduced this agenda item. He called the Board's attention to two letters (in Tab 8), one written to Mary Selecky from Lt. Governor Brad Owen and another written to Mary Selecky signed by ten representatives and senators on the Joint Select Committee for Hood Canal. Ned Therien introduced Maryanne Guichard and John Eliasson of the DOH Office of Environmental Health and Safety. Ms. Guichard gave a PowerPoint presentation titled *Drainfield Remediation Product Rules*. Member Shelton asked a hypothetical question about a home on waterfront property with an old, failing drain field where current setback standards from waterfront are not met, but another site is available for a new drain field. He wondered if the local health jurisdiction could allow remediation of the old site. Ms. Guichard clarified that the potential rule might not solve difficult site-by-site decisions by local health jurisdictions regarding poor soils for a drain field or inadequate set-backs. There was discussion that the makers of the Pirana system are in the midst of having their system tested by NSF (National Sanitation Foundation) and that likely will be completed by October 2006. This will provide information on how the system works. Deputy Secretary White explained that the rule timing would not be rapid (more than 6 months) due to a number of factors including workload pressures at DOH and the amount of information that would need to be gathered by DOH. He said that there was value in considering a rule with the help of the Technical Review Committee for on-site systems because no federal agency was developing such standards. Member Higman stated that the rule could be useful if all technologies are considered by DOH for drainfield

remediation and revisions not just focus on the one system. Such state standards could be very useful to local health jurisdictions.

***Motion: The Board directs the executive director to initiate rule making, in conjunction with the Department of Health, by filing a CR-101 for the purpose of developing statewide standards for devices marketed for the rehabilitation of on-site sewage system drain fields. The Board requests the Department to develop a proposed rule that would apply to all types of on-site sewage system drainfield remediation technologies marketed in Washington State.***

***Motion/Second: Higman/Crump***

***Approved unanimously***

### **BOARD MEMBER COMMENTS AND CONCERNS**

Frankie Manning, SBOH Member, announced a joint community event organized by King County, Steps, and Veterans Health Care for a walk and health screening. It will be held at 9 AM on May 13 at Columbia City, Seattle. She invited Board members to attend. Member Tonasket recognized the work of Craig McLaughlin and Ned Therien with the Yakama Nation at a meeting he attended with them the day before the Board meeting. Member Crump expressed his appreciation for presenters and other DOH staff who travel long distances to the Board meetings. Charles Chu, SBOH member commented on his appreciation of Board and local staff and the community for the forum held the night before.

### **PROPOSED 2007 PRELIMINARY STRATEGIC PLAN**

Chair Thorburn introduced this agenda item. Craig McLaughlin, WSBOH Staff, walked the Board through the *Draft Washington State Board of Health 2007 Five-Year Strategic Plan* (see Tab 10). He highlighted changes from the Board's 2005 plan and called attention to the RCWs that define the Board's authority. He referred the Board's attention to the *Office of Financial Management Operating Budget Instructions Part I*, and noted that OFM does not ask for activities to be included in the plan the way earlier drafts had. He noted that if the Board adopts the proposed strategic plan, the performance measures contained in the plan would be added to the DOH performance measures, since the Board's budget is a subpart of the DOH budget. He mentioned a few changes that are the result of the 2006 legislative session. Mr. McLaughlin noted that the last sections of the strategic plan are new. Member Crump asked for clarification on what is meant by nesting of the Board within DOH's budget. Chair Thorburn asked whether there should be reconsideration of the performance measure of when the State Health Report is due. Mr. McLaughlin agreed and suggested that the date be changed to "2008," without the month, in the second bullet at the upper part of page 10. Deputy Secretary White outlined the State's budget development process and dates.

***Motion: The Board finalizes the 2005 Five-Year Strategic Plan as submitted and amended in discussion this day.***

***Motion/Second: Shelton/Manning***

***Approved unanimously***

*The Board took a break at 1:52 p.m. and reconvened at 2:15 p.m.*

### **MENTAL HEALTH BRIEFING**

Member Crump stated that the purpose of this agenda item was to brief the Board members about the status of activities to reform the mental health system. He welcomed David Knutson, State Legislative staff, and Ken Stark, Director of the Mental Health Transformation Grant. Craig McLaughlin, pointed out materials behind Tab 11 in the Board packets. Mr. Knutson gave a PowerPoint presentation that described the Joint Task Force on Mental Health. He mentioned that Member Shelton serves on the task force. Mr. Stark described the Mental Health Transformation Grant project in the Governor's office. Washington is one of seven states in the nation that received a grant to study mental health access issues. There is very little science-based data on how to provide successful interventions or prevention for mental health. Subgroups met to recommend actions. About 6,000 suggestions were received. The subgroups have produced 27 recommendations. He commented that the taxing authority now available for local governments to fund mental health services could provide over \$100 million to local mental health programs. He said the Mental Health Transformation Grant program would deliver a report to the Governor by September 2006. Member Shelton commented that a major problem in providing mental health services is the lack of qualified people in the field due to low pay for even a master's level of education. He said that if the system is designed to treat the severely mentally ill, it is hard to think it will ever be able to provide preventive services. Member Tonasket commented on the lack of access to mental health services in rural areas. He also commented on the need to provide integrated services for multiple needs, such as alcohol abuse or drug abuse, as well as mental health problems. Member Manning commented that she was pleased to see that the president's policy paper on mental health services was being considered in this state policy development. Member Tonasket pointed out a comment heard at the public forum the evening before that paying for mental health prevention would be a lot cheaper than paying for the consequences.

### **FORUM EVALUATION/DISCUSSION**

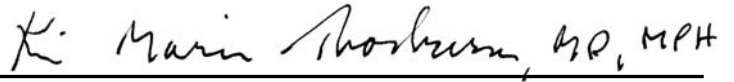
Craig McLaughlin reported on the evaluations received about the public health forum held the night before. Eleven evaluations were received from the 34 attendees. Heather Boe, WSBOH Staff, explained the outreach process to encourage attendance. Frankie Manning, WSBOH Member, recommended staff prepare a short paragraph better describing the topic and setting the stage for each breakout group. Member Tonasket recommended merging the *Prevention* breakout group with another because of low participation in forums in both Spokane and Kennewick. Deputy Secretary White commented that it is probably too late for this series of forums, but suggests that the break out sessions be structured differently: (1) what works, (2) what doesn't work, and (3) how to improve the system. Members recommended adding a little more time to the breakout sessions without making the whole forum longer.

### **PUBLIC TESTIMONY**

Thelma Siemon, citizen from Cle Elum, expressed a concern that parent advocates have a lack of trust in the process for developing a school rule revision. Her concern is that recommendations of the School Rule Development Committee have not been included in the first draft rule revision prepared by DOH. One of these recommendations she mentioned is that preschools be included in coverage by the Board's school rule.

**ADJOURNMENT**

Chair Thorburn adjourned the meeting at 3:57 p.m.

**WASHINGTON STATE BOARD OF HEALTH**

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Kim M. Thorburn, M.D., M.P.H., Chair